ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

INTERMEDIA COMMUNICATIONS, INC. COMMENTS CONCERNING THE INTERCONNECTION AND SERVICE UNBUNDLING PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996

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May 16, 1996

SUMMARY

As a rapidly growing provider of competitive services that has developed a nationwide presence, ICI has found that it is critically important for the Federal Communications Commission ("Commission") to establish uniform, nationaly-applicable rules governing interconnection, collocation, network unbundling and resale.

As interconnection-based competition develops, it will become critically important to evaluate the quality of service that incumbent local exchange carriers ("ILECs") provide to competitive local exchange carriers ("CLECs"), in order to distinguish between "honest mistakes" and actions that reflect bad faith or anticompetitive intent. The Commission should establish detailed, uniform service quality reporting standards that require ILECs to compare the quality of service they provide to CLECs, non-competitor customers, and ILEC affiliates or partners. The Commission should also require ILECs to respond to ongoing requests for unbundled network elements on a timely basis.

In order to accommodate the requirements of the 1996 Act, the Commission must update its expanded interconnection rules, and should establish them as a national standard, and should clarify that CLECs and other competitive carriers are obligated under the Act to provide collocation in their offices. While mandating physical collocation, the Commission should permit CLECs the option of "grandfathering" existing virtual collocation arrangements. The Commission should eliminate the current rule that limits the type of equipment that interconnecting parties may install within ILEC central offices, and should clarify that CLECs may collocate in structures that serve as points of aggregation for traffic along ILEC local loops. Finally, the Commission should require ILECs to tariff rate elements that will allow collocated CLECs to exchange traffic directly with other collocated CLECs within the same ILEC central office.

Under the 1996 Act, unbundled ILEC loops must be defined broadly to include high capacity, integrated services digital network, broadband and synchronous optical network circuits. The Commission should clarify that ILECs are required to provide interconnection at any aggregation point along the loop. In addition, to the extent that ILECs own and control riser and lateral conduit and cable within a multi-tenant building, they should offer such loop elements as unbundled, separately priced tariffed elements. The testing of loops should be unbundled and offered by ILECs as a separate -- and optional -- service element. Finally, the Commission must not define the 1996 Act to distinguish between unbundled ILEC facilities and the services provided over them. All unbundled elements must be fully conditioned to support a full range of services.

The Commission should specifically define unbundled ILEC switching and signaling network elements. These elements must provide CLECs with unmediated access to specific switching and signaling functions (including dialtone, number translation, 911, operator services and SS7) and databases (including number portability, billing and directory assistance). The Commission should clarify that ILECs may not charge CLECs for network-to-network interface, which traditionally has been provided without charge to co-carriers.

The Commission should adopt total service long run incremental cost as a national standard for interconnection and unbundled loop elements, and should also employ traditional discrimination and "price squeeze" analysis to ensure reasonable rates. In addition, it should make clear that CLECs may opt to implement "bill and keep" arrangements as an alternative form of mutual compensation.

The Commission should adopt a "fresh look" policy that would allow ILEC customers to opt out of long-term contracts without penalty when competitive alternatives become available.

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Intermedia Communications, Inc., ("ICI") by its undersigned counsel, and pursuant to the Commission's Notice of Proposed Rulemaking ("NPRM")[1] in the above-captioned docketed proceeding, hereby submits its comments regarding the implementation of the interconnection and local network unbundling provisions of the Telecommunications Act of 1996 (the "1996 Act").

I. INTRODUCTION

ICI is a rapidly growing provider of integrated telecommunications services. Since its inception as a single-network competitive access provider in 1987, ICI has grown into a multistate carrier that operates digital fiber optic networks in nine metropolitan areas along the Eastern Seaboard and in the Midwest, and has a tenth

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1 *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-182, released April 19, 1996 ("NPRM").

network under construction. In addition, through resale and sharing arrangements, ICI provides services to customers in approximately 600 cities nationwide. ICI offers its customers a variety of cutting-edge services, including frame relay, Internet access, and the full range of switched and private line services.

As a carrier that provides competitive local services on a facilities and resale basis across the country, ICI is critically concerned that the Commission pursues its mandate to implement the local competition provisions of the 1996 Act aggressively and effectively. It is critical to the continued development of competitive local services in this country that the Commission establish detailed, specific rules governing collocation, interconnection and network unbundling and pricing that will provide a consistent, predictable and reliable competitive environment throughout the United States. ICI submits the following proposals for such rules, based on its recent experience in pursuing competitive collocation and interconnection on both the state and federal level. These comments are intended to supplement the comments filed today by the Association for Local Telecommunications Services ("ALTS"), with which ICI concurs.

II. THE COMMISSION MUST ESTABLISH UNIFORM RULES OF NATIONWIDE APPLICABILITY

[NPRM reference: § II(B)(2); ¶¶ 50-51.]

The Commission must establish uniform rules of nationwide applicability. As ICI has grown to become a competitive service provider with a national presence, and has begun to make the transition from competitive access provider to full-service competitive local exchange carrier ("CLEC"), it has become critically aware of the need

for explicit and uniform national standards to resolve the many regulatory, technical and operational questions that accompany the interconnection of its networks with those of incumbent local exchange carriers ("ILECs"). ICI fully endorses the NPRM's tentative conclusion that CLECs, ILECs and state regulatory bodies would benefit from the promulgation of uniform nationwide standards for collocation, interconnection, ILEC network unbundling, and resale.

In its negotiations with ILECs for interconnection and resale arrangements, ICI has sometimes found the process frustrating -- extensive discussions over what facilities and services may be interconnected, performance standards, terms of service and appropriate rates and charges have, on occasion, resulted in considerable delays and unnecessary expense. To a large extent, this has been caused by an absence of rules that clearly define the rights and obligations of CLECs and ILECs in the interconnection process. Explicit and uniform rules will reduce the need for extensive negotiations and recourse to federal and state regulators, and so will greatly facilitate the interconnection process. Below, ICI discusses several issues that would benefit most from the adoption of federal rules.

III. THE COMMISSION MUST SET GUIDELINES TO ENSURE THAT ILECS DO NOT DISCRIMINATE AGAINST CLECS IN THE PROVISIONING OF SERVICES AND FACILITIES

[NPRM reference: § II(B)(2); ¶ 79.]

ICI recognizes that the initial implementation of interconnection pursuant to the 1996 Act necessarily will require significant adjustments by both ILECs and CLECs, as both parties establish the internal processes necessary to implement the

interconnection and interoperability of their networks. While some confusion and delay necessarily will accompany this process, it should dissipate quickly as the parties gain experience. Nevertheless, because interconnection requires that CLECs must depend on the ILECs against which they compete to obtain essential services and facilities, the Commission must recognize that it may be impossible for regulators to ascertain whether delay in implementing or repairing service, service interruptions, or declines in service quality result from "honest" mistakes or reflect bad faith and anticompetitive intentions. In order to address this issue, the Commission should establish standards of performance to ensure that ILECs do not discriminate in the provision of unbundled network facilities and services.

The Commission should promulgate a general rule that ILECs must provide CLECs with the same quality of service that they provide to non-competitor customers and to their own affiliates or partners. The Commission should also reference explicit measures of service quality, including:

- Standard deployment intervals for turning up new circuits, both where facilities are immediately available, and where new facilities must be installed
- Mean time to repair circuits
- Trouble reports received per category of service
- Diminution of service quality that do not constitute interruptions of service
- Multiple trouble reports for the same circuit or service
- Percentage of times Firm Order Commitment dates are met and missed[2]

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2 Firm Order Commitments ("FOCs") are simply a commitment by a carrier to turn up service on a date certain. While this is a standard business practice for

Continued on following page

- Intervals for circuit "rollovers"[3]
- Mean time to implement presubscribed interexchange carrier ("PIC") changes
- Mean post dial delay

In order to enforce the nondiscrimination provisions of the 1996 Act, ILECs must report the data listed above in regular reports, submitted quarterly to the Commission, and made available to the public. Data for each category listed above should be subdivided into categories for service provided to CLECs, non-competitor customers, and ILEC affiliates or partners. Such reporting requirements would obviate speculation whether delays or outages in ILEC-provided service reflect honest errors or discrimination against competitors, and would substantially reduce the need for litigation or inquiries by the Commission or state regulators. In essence, by making this service quality data available to the public, the Commission will establish a largely self-enforcing deterrent to discrimination that implements the mandate of the 1996 Act, while minimizing the need for active supervision by the Commission or the states.

Continued from previous page

ILECs, CLECs, and other carriers, several ILECs have refused to provide FOCs for collocation and interconnection arrangements. The Commission should require that ILECs provide CLECs with FOCs for all requested collocation arrangements, cross-connects to ILEC services, and interconnection arrangements within three weeks of receiving a request for service.

3 "Rollovers" refer to the process of terminating an existing ILEC circuit and replacing it with another. For example, if a customer upgrades a special access service from a voice grade line to a DS1 circuit, it asks the ILEC to terminate the voice grade service and install a DS1 service at the same location. Similarly, if a customer wishes to terminate an existing service that it receives from an ILEC and convert it to a service provided by a collocated CLEC, it asks the ILEC to roll the service over from the ILEC to the CLEC.

Similarly, the Commission should establish rules to ensure that ILECs will respond reasonably to requests for further network unbundling on an ongoing basis. ICI urges the Commission to require ILECs to respond to requests for unbundled network elements designed for use by multiple parties within 90 days, and within 120 days for customized or individual requests. In addition, ILECs should be required to provide public notice (through publication in a tariff or by other public announcement) of new unbundled network elements as they are made available. Finally, if an ILEC finds it is not possible to unbundle a requested network element, it should be required to supply full documentation supporting its decision to the relevant state regulatory body.

IV. THE COMMISSION MUST UPDATE ITS COLLOCATION RULES TO ESTABLISH NATIONWIDE STANDARDS THAT CONFORM WITH THE 1996 ACT

[NPRM reference: § II(B)(2); ¶¶ 67-68, 71.]

ICI has established collocation arrangements in a number of ILEC central offices, and central office collocation will continue to be a critically important vehicle for achieving interconnection. ICI strongly endorses the Commission's tentative conclusion that rules establishing uniform, national standards for expanded interconnection within ILEC central offices will promote the public interest,[4] and urges the Commission to reissue its expanded interconnection rules as national standards. In doing so, the Commission should make clear that, under Section 251(a) of the 1996 Act, CLECs and other competitive carriers are required to offer collocation in their offices and in points of aggregation on their networks. In light of the new interconnection requirements of the

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4 NPRM at paras. 67.

1996 Act, and ICI's experience, ICI requests that the Commission make the following revisions to its expanded interconnection rules.

First, the Commission must revise its expanded interconnection rules to reinstate its requirement that ILECs provide physical collocation, except where physically impossible. This revision is required by Section 251(c)(6) of the Act, and is consistent with the Commission's previous findings that physical collocation is superior to virtual collocation.[5] ICI notes, however, that pursuant to currently effective ILEC tariffs, ICI and other CLECs now have several virtual collocation arrangements in place. In order to allow both ILECs and CLECs to avoid the expense and disruption of converting existing virtual collocation arrangements to physical collocation, the Commission should allow CLECs to "grandfather" existing virtual collocation arrangements at their option On a going-forward basis, however, ICI urges the Commission to implement the 1996 Act's physical collocation mandate immediately, and require ILECs with currently effective virtual collocation tariffs to tariff physical collocation within 30 days.

Second, the Commission should clarify that, as a result of the 1996 Act, its decision that interconnecting parties are limited to installing terminating equipment[6] within ILEC central offices is no longer operative. Section 252(c)(2)(B) of the 1996 Act requires that ILECs provide interconnection at "any technically feasible point within the

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5 *Expanded Interconnection with Local Telephone Company Facilities*, 7 FCC Rcd. 7369, para. 39 (1992).

6 *Id.*, at para 93.

carriers' network." The 1996 Act contains no restriction on the type of equipment that may be installed within the CLEC's dedicated space inside the central office. The Commission's rules limiting the type of CLEC network equipment that may be collocated to terminating equipment clearly exceeds the "technically feasible" standard established by the 1996 Act, and so must be eliminated. The Commission should make clear that CLECs may install within a physical collocation arrangement inside an ILEC central office any equipment that complies with generally accepted industry standards.

Third, the Commission should specify that ILECs must tariff cross-connect elements for a number of services that are not currently offered. When it established its mandatory collocation rules, the Commission specified that ILECs were required to tariff cross-connects to DS1 and DS3 services immediately, and were required to tariff cross-connects to other services within 45 days of receiving a request.[7] While this broad requirement is unambiguous, ICI has found that some ILECs are interpreting the ruling narrowly, and are refusing to tariff cross-connects to several services and functionalities. Specifically, ILECs have been reluctant to honor ICI's requests to cross-connect to local public packet switching using x.25 and x.75 protocol conversion, frame relay service, and asynchronous transfer mode ("ATM") functions. In addition, while many ILECs have recently introduced synchronous optical network ("SONET") services, not all have tariffed cross-connects for them. In order to avoid the need for CLECs to file a complaint or interject this issue into the pending investigation of ILEC collocation

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7 *Expanded Interconnection with Local Telephone Company Facilities*, 7 FCC Rcd 7369 (1992), at para. 259 & n.603.

tariffs, ICI urges the Commission to clarify in this proceeding that ILECs have a broad obligation to allow collocated CLECs to cross-connect to the services mentioned above.

Fourth, the Commission should clarify that ILECs are required to provide collocation in structures outside their central offices, including controlled environment vaults ("CEVs"), equipment closets located in multi-tenant buildings, and other similar points along the local loop.[8] ICI discusses this issue in additional detail in the discussion of ILEC loop unbundling, in Section V, infra.

Finally, the Commission should amend its expanded interconnection rules to provide for the cross-connection of different collocated CLECs within an ILEC central office. Currently, ILECs maintain expanded interconnection arrangements in which ICI's facilities are located only several feet away from the facilities of another CLEC. Yet, if ICI wishes to hand traffic off to the neighboring CLEC, it must purchase a channel termination from the ILEC. Effectively, this arrangement pretends that ICI and the other CLEC are not located next to each other, and routes a circuit as though the other CLEC was located outside the central office. This arrangement is obviously inefficient and unnecessary and imposes charges on CLEC-CLEC cross connects that are well in excess of cost. The Commission should require ILECs to tariff a new rate element that allows one collocated CLEC to cross-connect to another. ICI has no objection to providing a similar service to ILECs that may wish to collocate in ICI's nodes.

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8 *See* NPRM at para. 71.

V. THE COMMISSION MUST ESTABLISH NATIONAL STANDARDS FOR UNBUNDLED LOOP INTERCONNECTION

[NPRM reference: § II(B)(2); ¶¶ 77, 95, 97.]

The Commission should enumerate technically feasible points in ILEC networks where interconnection is required. Absent such express guidance, CLECs likely will be embroiled in litigation at the state level that would impose unnecessary costs on CLECs, and would delay implementation of the interconnection required by the 1996 Act.

The Commission should clarify that unbundled ILEC loop elements are not restricted to analog voice grade circuits, but include high capacity, SONET, ISDN and broadband local loop circuits. The definition of "network elements" in Section 3(45) of the 1996 Act is written expansively, and provides no basis for restricting ILEC unbundled loops to voice grade services.

As a practical matter, it may not be feasible for CLECs to pursue interconnection at all buildings in which an ILEC maintains terminating equipment. For that reason, it is imperative that the Commission establish national standards that permit interconnection with ILEC loop facilities at points of aggregation along the loop. Specifically the Commission should mandate interconnection at ILEC subscriber loop concentrator ("SLC") equipment at any point in the loop where it is deployed.[9] Such

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9 SLCs are located at points of demarcation between distribution plant (typically the twisted pair cables that run from individual customer premises to the SLC) and feeder plant (high capacity transport cable that runs from the SLC to the ILEC central office). At the SLC, traffic from individual copper pair distribution cables is aggregated and multiplexed onto high capacity (typically DSI) feeder facilities.

points may include underground CEVs, utility rooms in the basements of multi-tenant buildings, or above-ground boxes that house the equipment.

ILECs should be required to unbundle their SLCs to permit connection in blocks of 24 distribution wire pairs (a TR303 connection). ICI recognizes that industry standards will have to be developed or modified to govern this form of interconnection, and stands ready to assist the ILECs and standards-setting bodies in establishing such standards. In addition, ICI commits to making the SLCs that it deploys available for similar interconnection by ILECs. In any event, interconnection at these points is now "technically feasible," and so is mandated by the 1996 Act.

In addition, the Commission must also specify that, in cases where ILECs retain control over riser and lateral cable and conduit within a multi-tenant building, the cable and conduit must be unbundled and offered as separately rated elements. Inside wire ("ISW") used in the provision of telecommunications services is subject to dual regulation by the Commission and state regulatory authorities. Under the Commission's rules, ILECs may determine the point of demarcation between ILEC outside plant ("OSP"), which is controlled by the LEC, and ISW, which is controlled by the building owner. The Commission has indicated that in the majority of -- but not all -- cases, the point of demarcation is located in the basement of the building.[10] In contrast, a number of states define the point of demarcation between OSP and ISW as immediately outside individual tenants' apartments within the building.

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10 Telecommunications Services Inside Wiring, CS Docket No. 95-184, FCC 95-504, released January 26, 1996, at paras. 54-55.

In cases where, by state regulatory definition or ILEC industry practice, ILECs control riser and lateral cable and conduit within a multi-tenant building, the Commission must find that such cable and conduit is a separate network element, and must require ILECs to offer it to CLECs on an unbundled basis. Access to such unbundled ILEC network elements is critical to a CLEC's ability to reach individual customers within multi-tenant buildings, and is required by Section 252(c)(3) of the Act.

Finally, the Commission should clarify that testing equipment and functions associated with unbundled loop elements must be unbundled and offered by ILECs as a separately rated -- and optional -- service. Section 3(45) of the 1996 Act requires unbundling of "features, functions and capabilities" of ILEC networks, and so clearly anticipates such a level of disaggregation. It is critical to the provision of competitive local service that CLECs be able to obtain unbundled network elements that they require, and to avoid charges for network elements that they do not need. Unbundling of loop testing equipment and functions is a necessary step to achieving these results.

[NPRM reference: § II(B)(2); ¶ 84.]

The Commission seeks comment on the definition of "network element" as it is used in the 1996 Act, specifically asking whether the Commission should recognize a distinction between the facility provided by an ILEC and the service provided over that facility. In resolving this question, the Commission must not accept artificial distinctions between ILEC facilities and the services provided over them. Indeed, the ability to obtain unbundled network elements will mean nothing to a CLEC

unless the elements are capable of supporting a complete end-to-end service. For example, any unbundled two-wire loops provided by ILECs must be fully capable of supporting Centrex service, "plain old telephone service" and integrated services digital network. In essence, the loop facility is not an entity in itself, but is only a means of providing service. If the unbundled loop elements provided by the ILEC are not conditioned to provide a full range of services, CLECs will not be able to use unbundled ILEC network elements to provision their own services. Such an outcome would directly violate Section 251(c)(3) of the 1996 Act, which requires that ILECs unbundle network elements "in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service."

VI. THE COMMISSION MUST ESTABLISH NATIONAL STANDARDS FOR THE UNBUNDLING OF SWITCHING AND SIGNALING FUNCTIONS

[NPRM reference: § II(B)(2); ¶¶ 107-16.]

Current ILEC practices unfairly discriminate against CLECs, denying them access to ILEC switching and signaling elements and databases on the same terms that the ILECs enjoy. The Commission should establish a national standard requiring ILECs to provide CLECs with unbundled and unmediated access to switching functions (including dialtone, number translation, operator services and emergency services); signaling functions (including Signaling System 7) and databases (including local number portability, customer billing name and address, directory assistance and customer network management databases).

In addition, the Commission should clarify that ILECs may not impose a charge on CLECs seeking network-to-network interface ("NNI"). Historically, ILECs

have not charged independent local exchange carriers for this function, but assumed it was a necessary part of co-carrier interconnectivity. The Commission should clarify that the 1996 Act accords CLECs with similar co-carrier status, and exempts them from NNI charges.

VII. THE COMMISSION SHOULD ADOPT NATIONWIDE PRICING STANDARDS FOR ILEC INTERCONNECTION AND UNBUNDLED NETWORK RATES

[NPRM reference: § II(B)(2); ¶ 130.]

ICI fully endorses the Commission's tentative conclusion that establishment of a nationwide pricing standard for interconnection and unbundled network elements would serve the public interest. ICI joins the majority of commenters on this issue in promoting the use of total service long run incremental costing ("TSLRIC") and the standard that should be adopted.

In addition, the Commission should adopt in its pricing standards established analytical methods to ensure that ILEC rates are just, reasonable and nondiscriminatory. Specifically, the Commission should require that ILECs impute to the cost of their retail services to end users all shared costs and loadings. As a result, the Commission should mandate the use of traditional "price squeeze" analysis before rates for unbundled network elements can be found to be reasonable. Specifically, the Commission should require that the sum of elements for individual unbundled loop elements must be less than the most highly discounted retail rate for local service, or any wholesale rate for local service that may be established. This requirement will ensure that ILECs do not impose a disproportionate amount of shared costs upon competitors that purchase unbundled loop elements.

In taking these steps, however, the Commission must not foreclose the ability of CLECs to obtain "bill and keep" mutual compensation arrangements. Such arrangements are specifically provided for in Section 252(d)(2)(B)(i) of the 1996 Act, and must be made available to CLECs at their option.

VIII. THE COMMISSION SHOULD ORDER A "FRESH LOOK" PERIOD FOR THE PROVISION OF NEW COMPETITIVE SERVICES MADE AVAILABLE BY THE 1996 ACT

[NOT SPECIFICALLY ADDRESSED IN NPRM]

The 1996 Act allows CLECs to offer competitive services in markets that previously were closed to them. Full competitive entry is not yet available, however, and will not be for a number of months, until the local competition provisions of the 1996 Act are implemented. Recently, however, in anticipation of this coming competition, the ILECs have been aggressively offering inducements to their local service customers to sign long-term contracts. In so doing, the ILECs are attempting to lock up the local services market, and to foreclose competitive entry for years.

This situation is identical to the ILECs' response to the Commission's mandatory central office collocation rules. In that case, the Commission found that "[t]he existence of certain long-term special access arrangements with excessive termination liabilities prevents customers from obtaining the benefits of greater access

to competition for a significant period," and so instituted a "fresh look" period.[11] Under the Commission's fresh look policy, customers that signed long-term contracts with ILECs before competitive service alternatives were available were given a chance to terminate the contracts with minimal liability for a period of six months after collocation-based competition became available.

Precisely the same relief is warranted in the instant case. Like central office collocation, the local competition requirements of the 1996 Act allow CLECs to provide competitive local services for the first time. Because ILEC local service customers that have signed long-term contracts did not have competitive alternatives available to them, they should be granted a similar fresh look opportunity for six months after a CLEC is first able to provide local service through the interconnection arrangements mandated by the 1996 Act.

IX. CONCLUSION

For the reasons discussed above, ICI urges the Commission to adopt specific rules governing collocation and interconnection and the unbundling and pricing of ILEC network elements. The establishment of such rules is essential to provide uniformity and regulatory certainty to competitive carriers that are increasingly operating

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11 *Expanded Interconnection With Local Telephone Company Facilities*, 8 FCC Rcd 7341, para 12 (1993).

in multiple states, and to minimize the cost and delay associated with the protracted litigation that would result from an absence of uniform standards.

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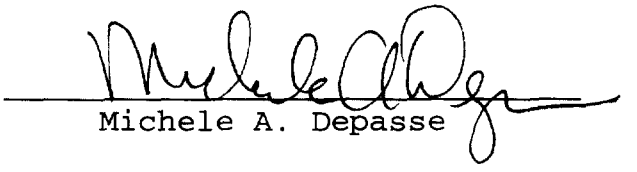

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